IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 346 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DAHOD NAGAR PALIKA

Versus

NATIONAL ELECTRONIC CORP.

Appearance:

MR MUKESH R SHAH for Petitioner

MR KV SHELAT for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/02/2001

ORAL JUDGEMENT

#. The petitioner is the original defendant against whom the respondent - plaintiff has filed the suit being Civil Suit No.213/94 in the court of Civil Judge (Junior Division), Dahod for the declaration that the

defendant-Municipality has no authority to seize and to keep in possession two Television Sets. He has also prayed for mandatory injunction to return the said two TV Sets to the respondent - plaintiff. In the said suit, application Exh.5 was given before the trial court by the original plaintiff for handing over two TV Sets. The trial court by its order dated 1.9.1995 rejected the said application. The aforesaid order was challenged in appeal by way of Misc.Civil Appeal No.88/95. The Assistant Judge, Panchmahals at Godhra allowed the said appeal partly. The order of the trial court was set aside and interim mandatory injunction pending the suit is granted and the defendant is directed to accept the regular octroi chargeable on two television sets from the plaintiff. The said order is challenged in this revision application by the original defendant.

#. At the time of admitting this revision application, this court has passed the following order.:

"Heard the ld.counsel for the respective parties.
Rule.

Heard the ld. counsel for the respective parties on interim relief. By way of interim relief, the impugned order is modified only to the extent that the petitioner shall release the goods seized on the opponent paying a sum of Rs.1500/to the petitioner. This payment shall be subject to the result of the present revision."

Therefore, as per the aforesaid interim order, the petitioner was directed to release the goods in question. This order was passed as back as in April, 1997 and, therefore, now this revision application is also required to be disposed of on the same lines.

#. Under these circumstances, this revision application is partly allowed and as per the earlier order passed by this court, the goods in question to be released on the opponent paying a sum of Rs.1500/- to the petitioner. The order of the appellate court is modified, therefore, to the aforesaid extent. If the opponent has not paid the said amount so far, on its payment of the aforesaid amount, the Municipality will release the goods in question. If the aforesaid payment is already made, nothing further will be required to be done by the opponent. It is also clarified that if the opponent ultimately fails to pay the aforesaid amount, as stated above, it may not be obligatory for the petitioner to release the goods in question. It is also clarified that

this interim order is only a tentative one and the same will be subject to the final outcome of the suit. Ultimately, if the suit is decreed, whatever amount is paid by the opponent will be required to be adjusted and the trial court, while disposing of the suit, will take into consideration the said aspect.

#. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)